

Montgomery vs. Cuomo

Exhibit Group E

Exhibit #14 – ATF Form 4473

U.S. Department of Justice

Bureau of Alcohol, Tobacco, Firearms and Explosives

Firearms Transaction Record Part I - Over-the-Counter

WARNING: You may not receive a firearm if prohibited by Federal or State law. The information you provide will be used to determine whether you are prohibited under law from receiving a firearm. Certain violations of the Gun Control Act, 18 U.S.C. §§ 921 *et. seq.*, are punishable by up to 10 years imprisonment and/or up to a \$250,000 fine.

Prepare in original only. All entries must be handwritten in ink. Read the Notices, Instructions, and Definitions on this form. "PLEASE PRINT."

Section A - Must Be Completed Personally By Transferee (Buyer)

1. Transferee's Full Name Last Name		First Name		Middle Name (<i>If no middle name, state "NMN"</i>)			Transferor's Transaction Serial Number (<i>If any</i>)	
2. Current Residence Address (U.S. Postal abbreviations are acceptable. Cannot be a post office box.) Number and Street Address		City		County		State	ZIP Code	
3. Place of Birth U.S. City and State	-OR-	4. Height Ft. _____ In. _____	5. Weight (Lbs.)	6. Gender <input type="checkbox"/> Male <input type="checkbox"/> Female	7. Birth Date Month	Day	Year	
8. Social Security Number (<i>Optional, but will help prevent misidentification</i>)			9. Unique Personal Identification Number (UPIN) if applicable (<i>See Instructions for Question 9.</i>)					
10.a. Ethnicity <input type="checkbox"/> Hispanic or Latino <input type="checkbox"/> Not Hispanic or Latino		10.b. Race (<i>Check one or more boxes.</i>) <input type="checkbox"/> American Indian or Alaska Native <input type="checkbox"/> Asian <input type="checkbox"/> Black or African American <input type="checkbox"/> Native Hawaiian or Other Pacific Islander <input type="checkbox"/> White						
11. Answer questions 11.a. (<i>see exceptions</i>) through 11.l. and 12 (<i>if applicable</i>) by checking or marking "yes" or "no" in the boxes to the right of the questions.								
a. Are you the actual transferee/buyer of the firearm(s) listed on this form? Warning: You are not the actual buyer if you are acquiring the firearm(s) on behalf of another person. If you are not the actual buyer, the dealer cannot transfer the firearm(s) to you. (See Instructions for Question 11.a.) Exception: If you are picking up a repaired firearm(s) for another person, you are not required to answer 11.a. and may proceed to question 11.b.								
b. Are you under indictment or information in any court for a felony , or any other crime, for which the judge could imprison you for more than one year? (<i>See Instructions for Question 11.b.</i>)								
c. Have you ever been convicted in any court of a felony , or any other crime, for which the judge could have imprisoned you for more than one year, even if you received a shorter sentence including probation? (<i>See Instructions for Question 11.c.</i>)								
d. Are you a fugitive from justice?								
e. Are you an unlawful user of, or addicted to, marijuana or any depressant, stimulant, narcotic drug, or any other controlled substance?								
f. Have you ever been adjudicated mentally defective (<i>which includes a determination by a court, board, commission, or other lawful authority that you are a danger to yourself or to others or are incompetent to manage your own affairs</i>) OR have you ever been committed to a mental institution? (<i>See Instructions for Question 11.f.</i>)								
g. Have you been discharged from the Armed Forces under dishonorable conditions?								
h. Are you subject to a court order restraining you from harassing, stalking, or threatening your child or an intimate partner or child of such partner? (<i>See Instructions for Question 11.h.</i>)								
i. Have you ever been convicted in any court of a misdemeanor crime of domestic violence? (<i>See Instructions for Question 11.i.</i>)								
j. Have you ever renounced your United States citizenship?								
k. Are you an alien illegally in the United States?								
l. Are you an alien admitted to the United States under a nonimmigrant visa? (<i>See Instructions for Question 11.l.</i>) <i>If you answered "no" to this question, do NOT respond to question 12 and proceed to question 13.</i>								
12. If you are an alien admitted to the United States under a nonimmigrant visa, do you fall within any of the exceptions set forth in the instructions? (If "yes," the licensee must complete question 20c.) (<i>See Instructions for Question 12.</i>) <i>If question 11.l. is answered with a "no" response, then do NOT respond to question 12 and proceed to question 13.</i>								
13. What is your State of residence (<i>if any</i>)? (<i>See Instructions for Question 13.</i>)		14. What is your country of citizenship? (<i>List/check more than one, if applicable. If you are a citizen of the United States, proceed to question 16.</i>) <input type="checkbox"/> United States of America <input type="checkbox"/> Other (<i>Specify</i>) _____		15. If you are not a citizen of the United States, what is your U.S.-issued alien number or admission number?				

I certify that my answers to Section A are true, correct, and complete. I have read and understand the Notices, Instructions, and Definitions on ATF Form 4473. I understand that answering "yes" to question 11.a. if I am not the actual buyer is a crime punishable as a felony under Federal law, and may also violate State and/or local law. I understand that a person who answers "yes" to any of the questions 11.b. through 11.k. is prohibited from purchasing or receiving a firearm. I understand that a person who answers "yes" to question 11.l. is prohibited from purchasing or receiving a firearm, unless the person also answers "Yes" to question 12. I also understand that making any false oral or written statement, or exhibiting any false or misrepresented identification with respect to this transaction, is a crime punishable as a felony under Federal law, and may also violate State and/or local law. I further understand that the repetitive purchase of firearms for the purpose of resale for livelihood and profit without a Federal firearms license is a violation of law (See Instructions for Question 16).

16. Transferee's/Buyer's Signature	17. Certification Date
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Section B - Must Be Completed By Transferor (Seller)

18. Type of firearm(s) to be transferred (<i>check or mark all that apply</i>): <input type="checkbox"/> Handgun <input type="checkbox"/> Long Gun <input type="checkbox"/> Other Firearm (<i>Frame, Receiver, etc.</i> <i>(rifles or</i> <i>shotguns)</i> <i>See Instructions for Question 18.</i>)	19. If sale at a gun show or other qualifying event. Name of Event _____ City, State _____
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20a. Identification (<i>e.g., Virginia Driver's license (VA DL) or other valid government-issued photo identification.</i>) (<i>See Instructions for Question 20.a.</i>) Issuing Authority and Type of Identification	Number on Identification	Expiration Date of Identification (<i>if any</i>) Month Day Year
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20b. Alternate Documentation (<i>if driver's license or other identification document does not show current residence address</i>) (<i>See Instructions for Question 20.b.</i>)

20c. Aliens Admitted to the United States Under a Nonimmigrant Visa Must Provide: Type of documentation showing an exception to the nonimmigrant visa prohibition. (<i>See Instructions for Question 20.c.</i>)

Questions 21, 22, or 23 Must Be Completed Prior To The Transfer Of The Firearm(s) (*See Instructions for Questions 21, 22 and 23.*)

21a. Date the transferee's identifying information in Section A was transmitted to NICS or the appropriate State agency: (<i>Month/Day/Year</i>) Month Day Year	21b. The NICS or State transaction number (<i>if provided</i>) was: _____
21c. The response initially provided by NICS or the appropriate State agency was: <input type="checkbox"/> Proceed <input type="checkbox"/> Delayed <input type="checkbox"/> Denied <i>[The firearm(s) may be transferred on</i> <input type="checkbox"/> Cancelled <i>_____ (Missing Disposition</i> <i>Information date provided by NICS) if State law</i> <i>permits (optional)]</i>	21d. If initial NICS or State response was " <i>Delayed</i> ," the following response was received from NICS or the appropriate State agency: <input type="checkbox"/> Proceed _____ (<i>date</i>) <input type="checkbox"/> Denied _____ (<i>date</i>) <input type="checkbox"/> Cancelled _____ (<i>date</i>) <input type="checkbox"/> No resolution was provided within 3 business days.

21e. (<i>Complete if applicable.</i>) After the firearm was transferred, the following response was received from NICS or the appropriate State agency on: _____ (<i>date</i>). <input type="checkbox"/> Proceed <input type="checkbox"/> Denied <input type="checkbox"/> Cancelled
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21f. The name and Brady identification number of the NICS examiner (<i>Optional</i>) _____ (<i>name</i>) _____ (<i>number</i>)
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22. <input type="checkbox"/> No NICS check was required because the transfer involved only National Firearms Act firearm(s). (<i>See Instructions for Question 22.</i>)			
23. <input type="checkbox"/> No NICS check was required because the buyer has a valid permit from the State where the transfer is to take place, which qualifies as an exemption to NICS (<i>See Instructions for Question 23.</i>)			
Issuing State and Permit Type	Date of Issuance (<i>if any</i>)	Expiration Date (<i>if any</i>)	Permit Number (<i>if any</i>)

Section C - Must Be Completed Personally By Transferee (Buyer)

If the transfer of the firearm(s) takes place on a different day from the date that the transferee (*buyer*) signed Section A, the transferee must complete Section C immediately prior to the transfer of the firearm(s). (*See Instructions for Question 24 and 25.*)

I certify that my answers to the questions in Section A of this form are still true, correct and complete.

24. Transferee's/Buyer's Signature	25. Recertification Date
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Transferor (Seller) Continue to Next Page
STAPLE IF PAGES BECOME SEPARATED

Section D - Must Be Completed By Transferor (Seller)				
26. Manufacturer and/or Importer (<i>If the manufacturer and importer are different, the FFL should include both.</i>)	27. Model	28. Serial Number	29. Type (<i>pistol, revolver, rifle, shotgun, receiver, frame, etc.</i>) (<i>See instructions for question 29</i>)	30. Caliber or Gauge
30a. Total Number of Firearms (<i>Please handwrite by printing e.g., one, two, three, etc. Do not use numerals.</i>)			30b. Is any part of this transaction a Pawn Redemption? <input type="checkbox"/> Yes <input type="checkbox"/> No	
30c. For Use by FFL (<i>See Instructions for Question 30c.</i>)				

Complete ATF Form 3310.4 For Multiple Purchases of Handguns Within 5 Consecutive Business Days

31. Trade/corporate name and address of transferor (<i>seller</i>) (<i>Hand stamp may be used.</i>)	32. Federal Firearms License Number (<i>Must contain at least first three and last five digits of FFL Number X-XX-XXXXX.</i>) (<i>Hand stamp may be used.</i>)
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**The Person Transferring The Firearm(s) Must Complete Questions 33-36. For Denied/Cancelled Transactions,
The Person Who Completed Section B Must Complete Questions 33-35.**

I certify that my answers in Sections B and D are true, correct, and complete. I have read and understand the Notices, Instructions, and Definitions on ATF Form 4473. On the basis of: (1) the statements in Section A (and Section C if the transfer does not occur on the day Section A was completed); (2) my verification of the identification noted in question 20a (and my reverification at the time of transfer *if the transfer does not occur on the day Section A was completed*); and (3) the information in the current State Laws and Published Ordinances, it is my belief that it is not unlawful for me to sell, deliver, transport, or otherwise dispose of the firearm(s) listed on this form to the person identified in Section A.

33. Transferor's/Seller's Name (<i>Please print</i>)	34. Transferor's/Seller's Signature	35. Transferor's/Seller's Title	36. Date Transferred
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NOTICES, INSTRUCTIONS AND DEFINITIONS

Purpose of the Form: The information and certification on this form are designed so that a person licensed under 18 U.S.C. § 923 may determine if he or she may lawfully sell or deliver a firearm to the person identified in Section A, and to alert the buyer of certain restrictions on the receipt and possession of firearms. This form should only be used for sales or transfers where the seller is licensed under 18 U.S.C. § 923. The seller of a firearm must determine the lawfulness of the transaction and maintain proper records of the transaction. Consequently, the seller must be familiar with the provisions of 18 U.S.C. §§ 921-931 and the regulations in 27 CFR Part 478. In determining the lawfulness of the sale or delivery of a long gun (*rifle or shotgun*) to a resident of another State, the seller is presumed to know the applicable State laws and published ordinances in both the seller's State and the buyer's State.

After the seller has completed the firearms transaction, he or she must make the completed, original ATF Form 4473 (*which includes the Notices, General Instructions, and Definitions*), and any supporting documents, part of his or her permanent records. Such Forms 4473 must be retained for at least 20 years. Filing may be chronological (*by date*), alphabetical (*by name*), or numerical (*by transaction serial number*), as long as all of the seller's completed Forms 4473 are filed in the same manner. FORMS 4473 FOR DENIED/CANCELLED TRANSFERS MUST BE RETAINED: If the transfer of a firearm is denied/canceled by NICS, or if for any other reason the transfer is not complete after a NICS check is initiated, the licensee must retain the ATF Form 4473 in his or her records for at least 5 years. Forms 4473 with respect to which a sale, delivery, or transfer did not take place shall be separately retained in alphabetical (*by name*) or chronological (*by date of transferee's certification*) order.

If you or the buyer discover that an ATF Form 4473 is incomplete or improperly completed after the firearm has been transferred, and you or the buyer wish to make a record of your discovery, then photocopy the inaccurate form and make any necessary additions or revisions to the photocopy. You only should make changes to Sections B and D. The buyer should only make changes to Sections A and C. Whoever made the changes should initial and date the changes. The corrected photocopy should be attached to the original Form 4473 and retained as part of your permanent records.

Over-the-Counter Transaction: The sale or other disposition of a firearm by a seller to a buyer, at the seller's licensed premises. This includes the sale or other disposition of a rifle or shotgun to a nonresident buyer on such premises.

State Laws and Published Ordinances: The publication (ATF P 5300.5) of State firearms laws and local ordinances ATF distributes to licensees.

Exportation of Firearms: The State or Commerce Departments may require you to obtain a license prior to export.

Section A

Question 1. Transferee's Full Name: The buyer must personally complete Section A of this form and certify (*sign*) that the answers are true, correct, and complete. However, if the buyer is unable to read and/or write, the answers (*other than the signature*) may be completed by another person, excluding the seller. Two persons (*other than the seller*) must then sign as witnesses to the buyer's answers and signature.

When the buyer of a firearm is a corporation, company, association, partnership, or other such business entity, an officer authorized to act on behalf of the

business must complete Section A of the form with his or her personal information, sign Section A, and attach a written statement, executed under penalties of perjury, stating: (A) the firearm is being acquired for the use of and will be the property of that business entity and (B) the name and address of that business entity. If the buyer's name in question 1. is illegible, the seller must print the buyer's name above the name written by the buyer.

Question 2. Current Residence Address: U.S. Postal abbreviations are acceptable. (e.g., St., Rd., Dr., PA, NC, etc.). Address cannot be a post office box. County and Parish are one and the same.

If the buyer is a member of the Armed Forces on active duty acquiring a firearm in the State where his or her permanent duty station is located, but does not reside at his or her permanent duty station, the buyer must list both his or her permanent duty station address and his or her residence address in response to question 2. If you are a U.S. citizen with two States of residence, you should list your current residence address in response to question 2 (e.g., if you are buying a firearm while staying at your weekend home in State X, you should list your address in State X in response to question 2).

Question 9. Unique Personal Identification Number (UPIN): For purchasers approved to have information maintained about them in the FBI NICS Voluntary Appeal File, NICS will provide them with a Unique Personal Identification Number, which the buyer should record in question 9. The licensee may be asked to provide the UPIN to NICS or the State.

Question 11.a. Actual Transferee/Buyer: For purposes of this form, you are the actual transferee/buyer if you are purchasing the firearm for yourself or otherwise acquiring the firearm for yourself (e.g., redeeming the firearm from pawn/retrieving it from consignment, firearm raffle winner). You are also the actual transferee/buyer if you are legitimately purchasing the firearm as a gift for a third party. **ACTUAL TRANSFEE/BUYER EXAMPLES:** Mr. Smith asks Mr. Jones to purchase a firearm for Mr. Smith. Mr. Smith gives Mr. Jones the money for the firearm. Mr. Jones is **NOT THE ACTUAL TRANSFEE/BUYER** of the firearm and must answer "NO" to question 11.a. The licensee may not transfer the firearm to Mr. Jones. However, if Mr. Brown goes to buy a firearm with his own money to give to Mr. Black as a present, Mr. Brown is the actual transferee/buyer of the firearm and should answer "YES" to question 11.a. However, you may not transfer a firearm to any person you know or have reasonable cause to believe is prohibited under 18 U.S.C. § 922(g), (n), or (x). **Please note: EXCEPTION:** If you are picking up a repaired firearm(s) for another person, you are not required to answer 11.a. and may proceed to question 11.b.

Question 11.b. - 11.l. Definition of Prohibited Person: Generally, 18 U.S.C. § 922 prohibits the shipment, transportation, receipt, or possession in or affecting interstate commerce of a firearm by one who: has been convicted of a misdemeanor crime of domestic violence; has been convicted of a felony, or any other crime, punishable by imprisonment for a term exceeding one year (*this does not include State misdemeanors punishable by imprisonment of two years or less*); is a fugitive from justice; is an unlawful user of, or addicted to, marijuana or any depressant, stimulant, or narcotic drug, or any other controlled substance; has been adjudicated mentally defective or has been committed to a mental institution; has been discharged from the Armed Forces under dishonorable conditions; has renounced his or her U.S. citizenship; is an alien illegally in the United States or an alien admitted to the United States under a nonimmigrant visa; or is subject to certain restraining orders. Furthermore, section 922 prohibits the shipment, transportation, or receipt in or affecting interstate commerce of a firearm by one who is under indictment or information for a felony, or any other crime, punishable by imprisonment for a term exceeding one year.

Question 11.b. Under Indictment or Information or Convicted in any Court: An indictment, information, or conviction in any Federal, State, or local court. An information is a formal accusation of a crime verified by a prosecutor.

EXCEPTION to 11.c. and 11.i.: A person who has been convicted of a felony, or any other crime, for which the judge could have imprisoned the person for more than one year, or who has been convicted of a misdemeanor crime of domestic violence, is not prohibited from purchasing, receiving, or possessing a firearm if: (1) under the law of

the jurisdiction where the conviction occurred, the person has been pardoned, the conviction has been expunged or set aside, or the person has had their civil rights (*the right to vote, sit on a jury, and hold public office*) taken away and later restored AND (2) the person is not prohibited by the law of the jurisdiction where the conviction occurred from receiving or possessing firearms. Persons subject to this exception should answer "no" to 11.c. or 11.i., as applicable.

Question 11.f. Adjudicated Mentally Defective: A determination by a court, board, commission, or other lawful authority that a person, as a result of marked subnormal intelligence, or mental illness, incompetency, condition, or disease: (1) is a danger to himself or to others; or (2) lacks the mental capacity to contract or manage his own affairs. This term shall include: (1) a finding of insanity by a court in a criminal case; and (2) Those persons found incompetent to stand trial or found not guilty by reason of lack of mental responsibility.

Committed to a Mental Institution: A formal commitment of a person to a mental institution by a court, board, commission, or other lawful authority. The term includes a commitment to a mental institution involuntarily. The term includes commitment for mental defectiveness or mental illness. It also includes commitments for other reasons, such as for drug use. The term does not include a person in a mental institution for observation or a voluntary admission to a mental institution. Please also refer to Question 11.c. for the definition of a prohibited person.

EXCEPTION to 11. f. NICS Improvement Amendments Act of 2007: A person who has been adjudicated as a mental defective or committed to a mental institution is not prohibited if: (1) the person was adjudicated or committed by a department or agency of the Federal Government, such as the United States Department of Veteran's Affairs ("VA") (as opposed to a State court, State board, or other lawful State authority); and (2) either: (a) the person's adjudication or commitment for mental incompetency was set-aside or expunged by the adjudicating/committing agency; (b) the person has been fully released or discharged from all mandatory treatment, supervision, or monitoring by the agency; or (c) the person was found by the agency to no longer suffer from the mental health condition that served as the basis of the initial adjudication.

Persons who fit this exception should answer "no" to Item 11.f. This exception does not apply to any person who was adjudicated to be not guilty by reason of insanity, or based on lack of mental responsibility, or found incompetent to stand trial, in any criminal case or under the Uniform Code of Military Justice.

Question 11.h. Definition of Restraining Order: Under 18 U.S.C. § 922, firearms may not be sold to or received by persons subject to a court order that: (A) was issued after a hearing which the person received actual notice of and had an opportunity to participate in; (B) restrains such person from harassing, stalking, or threatening an intimate partner or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and (C)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or (ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury. An "intimate partner" of a person is: the spouse or former spouse of the person, the parent of a child of the person, or an individual who cohabitates or cohabitating with the person.

Question 11.i. Definition of Misdemeanor Crime of Domestic Violence: A Federal, State, local, or tribal offense that is a misdemeanor under Federal, State, or tribal law and has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with, or has cohabitated with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim. The term includes all misdemeanors that have as an element the use or attempted use of physical force or the threatened use of a deadly weapon (e.g., assault and battery), if the offense is committed by one of the defined parties. (See Exception to 11.c. and 11.i.) A person who has been convicted of a misdemeanor crime of domestic violence also is not prohibited unless: (1) the person was represented by a lawyer or gave up the right to a lawyer; or (2) if the person was entitled to a jury, was tried by a jury, or gave up the right to a jury trial. Persons subject to this exception should answer "no" to 11.i.

Question 11.l. An alien admitted to the United States under a nonimmigrant visa includes, among others, persons visiting the United States temporarily for business or pleasure, persons studying in the United States who maintain a residence abroad, and certain temporary foreign workers. The definition does **NOT** include permanent resident aliens nor does it apply to nonimmigrant aliens admitted to the United States pursuant to either the Visa Waiver Program or to regulations otherwise exempting them from visa requirements.

An alien admitted to the United States under a nonimmigrant visa who responds "yes" to question 11.l. must provide a response to question 12 indicating whether he/she qualifies under an exception.

Question 12. Exceptions to the Nonimmigrant Alien Response: An alien admitted to the United States under a nonimmigrant visa is not prohibited from purchasing, receiving, or possessing a firearm if the alien: (1) is in possession of a hunting license or permit lawfully issued by the Federal Government, a State, or local government, or an Indian tribe federally recognized by the Bureau of Indian Affairs, which is valid and unexpired; (2) was admitted to the United States for lawful hunting or sporting purposes; (3) has received a waiver from the prohibition from the Attorney General of the United States; (4) is an official representative of a foreign government who is accredited to the United States Government or the Government's mission to an international organization having its headquarters in the United States; (5) is en route to or from another country to which that alien is accredited; (6) is an official of a foreign government or a distinguished foreign visitor who has been so designated by the Department of State; or (7) is a foreign law enforcement officer of a friendly foreign government entering the United States on official law enforcement business.

Persons subject to one of these exceptions should answer "yes" to questions 11.l. and 12 and provide documentation such as a copy of the hunting license or letter granting the waiver, which must be recorded in 20.c. If the transferee (*buyer*) answered "yes" to this question, the licensee must complete 20.c.

The seller should verify supporting documentation provided by the purchaser and must attach a copy of the provided documentation to this ATF Form 4473, Firearms Transaction Record.

Question 13. State of Residence: The State in which an individual resides. An individual resides in a State if he or she is present in a State with the intention of making a home in that State. If an individual is a member of the Armed Forces on active duty, his or her State of residence also is the State in which his or her permanent duty station is located.

If you are a U.S. citizen with two States of residence, you should list your current residence address in response to question 2 (*e.g., if you are buying a firearm while staying at your weekend home in State X, you should list your address in State X in response to question 2.*)

Question 16. Certification Definition of Engaged in the Business: Under 18 U.S.C. § 922(a)(1), it is unlawful for a person to engage in the business of dealing in firearms without a license. A person is engaged in the business of dealing in firearms if he or she devotes time, attention, and labor to dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through the repetitive purchase and resale of firearms. A license is not required of a person who only makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or who sells all or part of his or her personal collection of firearms.

Section B

Question 18. Type of Firearm(s): Check all boxes that apply. "Other" refers to frames, receivers and other firearms that are not either handguns or long guns (rifles or shotguns), such as firearms having a pistol grip that expel a shotgun shell, or National Firearms Act (NFA) firearms.

If a frame or receiver can only be made into a long gun (*rifle or shotgun*), it is still a frame or receiver not a handgun or long gun. However, they still are "firearms" by definition, and subject to the same

GCA limitations as any other firearms. See Section 921(a)(3)(b), 18 U.S.C. Section 922(b)(1) makes it unlawful for licensee to sell any firearm other than a shotgun or rifle to any person under the age of 21. Since a frame or receiver for a firearm, to include one that can only be made into a long gun, is a "firearm other than a shotgun or rifle," it cannot be transferred to anyone under the age of 21. Also, note that multiple sales forms are not required for frames or receivers of any firearms, or pistol grip shotguns, since they are not "pistols or revolvers" under Section 923(g)(3)(a).

Question 19. Gun Shows: If sale at gun show or other qualifying event sponsored by any national, State, or local organization, as authorized by 27 CFR § 478.100, the seller must record the name of event and the location (*city and State*) of the sale in question 19.

Question 20a. Identification: List issuing authority (*e.g., State, County or Municipality*) and type of identification presented (*e.g., Virginia driver's license (VA DL), or other valid government-issued identification*).

Know Your Customer: Before a licensee may sell or deliver a firearm to a nonlicensee, the licensee must establish the identity, place of residence, and age of the buyer. The buyer **must** provide a valid government-issued photo identification to the seller that contains the buyer's name, residence address, and date of birth. The licensee must record the type, identification number, and expiration date (*if any*) of the identification in question 20.a. A driver's license or an identification card issued by a State in place of a license is acceptable. Social Security cards are not acceptable because no address, date of birth, or photograph is shown on the cards. A combination of government-issued documents may be provided. For example, if a U.S. citizen has two States of residence and is trying to buy a handgun in State X, he may provide a driver's license (*showing his name, date of birth, and photograph*) issued by State Y and another government-issued document (*such as a tax document*) from State X showing his residence address. If the buyer is a member of the Armed Forces on active duty acquiring a firearm in the State where his or her permanent duty station is located, but he or she has a driver's license from another State, you should list the buyer's military identification card and official orders showing where his or her permanent duty station is located in response to question 20.a.

Question 20.b. Alternate Documentation: Licensees may accept a combination of valid government-issued documents to satisfy the identification document requirements of the law. The required valid government-issued photo identification document bearing the name, photograph, and date of birth of transferee may be supplemented by another valid, government-issued document showing the transferee's residence address. This alternate documentation should be recorded in question 20.b., with issuing authority and type of identification presented. A combination of government-issued documents may be provided. For example, if a U.S. citizen has two States of residence and is trying to buy a handgun in State X, he may provide a driver's license (*showing his name, date of birth, and photograph*) issued by State Y and another government-issued document (*such as a tax document*) from State X showing his residence address.

Question 20c. Documentation for Aliens Admitted to the United States Under a Nonimmigrant Visa: See instructions for Question 11.l. Types of acceptable documents would include a valid hunting license lawfully issued in the United States or a letter from the U.S. Attorney General granting a waiver.

Question(s) 21, 22, 23, NICS BACKGROUND CHECKS: 18 U.S.C. § 922(t) requires that prior to transferring any firearm to an unlicensed person, a licensed importer, manufacturer, or dealer must first contact the National Instant Criminal Background Check System (NICS). NICS will advise the licensee whether the system finds any information that the purchaser is prohibited by law from possessing or receiving a firearm. For purposes of this form, contacts to NICS include contacts to State agencies designated to conduct NICS checks for the Federal Government. **WARNING:** Any seller who transfers a firearm to any person they know or have reasonable cause to believe is prohibited from receiving or possessing a firearm violates the law, even if the seller has complied with the background check requirements of the Brady law.

After the buyer has completed Section A of the form and the licensee has completed questions 18-20, and before transferring the firearm, the licensee must contact NICS (*read below for NICS check exceptions*). However, the licensee should NOT contact NICS and should stop the transaction if: the

buyer answers "no" to question 11.a.; the buyer answers "yes" to any question in 11.b.-11.l., unless the buyer only has answered "yes" to question 11.l. and also answers "yes" to question 12; or the buyer is unable to provide the documentation required by question 20.a, b, or c.

At the time that NICS is contacted, the licensee must record in question 21.a-c: the date of contact, the NICS (*or State*) transaction number, and the initial response provided by NICS or the State. The licensee may record the Missing Disposition Information (MDI) date in 21.c. that NICS provides for delayed transactions (*States do not provide this number*). If the licensee receives a "*delayed*" response, before transferring the firearm, the licensee must record in question 21.d. any response later provided by NICS or the State or that no resolution was provided within 3 business days. If the licensee receives a response from NICS or the State after the firearm has been transferred, he or she must record this information in question 21.e. **Note:** States acting as points of contact for NICS checks may use terms other than "*proceed*," "*delayed*," "*cancelled*," or "*denied*." In such cases, the licensee should check the box that corresponds to the State's response. Some States may not provide a transaction number for denials. However, if a firearm is transferred within the three business day period, a transaction number is required.

NICS Responses: If NICS provides a "*proceed*" response, the transaction may proceed. If NICS provides a "*cancelled*" response, the seller is prohibited from transferring the firearm to the buyer. If NICS provides a "*denied*" response, the seller is prohibited from transferring the firearm to the buyer. If NICS provides a "*delayed*" response, the seller is prohibited from transferring the firearm unless 3 business days have elapsed and, before the transfer, NICS or the State has not advised the seller that the buyer's receipt or possession of the firearm would be in violation of law. (See 27 CFR § 478.102(a) for an example of how to calculate 3 business days.) If NICS provides a "*delayed*" response, NICS also will provide a Missing Disposition Information (MDI) date that calculates the 3 business days and reflects when the firearm(s) can be transferred under Federal law. States may not provide an MDI date. *Please note State law may impose a waiting period on transferring firearms.*

EXCEPTIONS TO NICS CHECK: A NICS check is not required if the transfer qualifies for any of the exceptions in 27 CFR § 478.102(d). Generally these include: (a) transfers where the buyer has presented the licensee with a permit or license that allows the buyer to possess, acquire, or carry a firearm, and the permit has been recognized by ATF as a valid alternative to the NICS check requirement; (b) transfers of National Firearms Act weapons approved by ATF; or (c) transfers certified by ATF as exempt because compliance with the NICS check requirements is impracticable. See 27 CFR § 478.102(d) for a detailed explanation. If the transfer qualifies for one of these exceptions, the licensee must obtain the documentation required by 27 CFR § 478.131. A firearm must **not** be transferred to any buyer who fails to provide such documentation.

Section C

Question 24 and 25. Transfer on a Different Day and Recertification: If the transfer takes place on a different day from the date that the buyer signed Section A, the licensee must again check the photo identification of the buyer at the time of transfer, and the buyer must complete the recertification in Section C at the time of transfer.

Section D

Immediately prior to transferring the firearm, the seller must complete all of the questions in Section D. In addition to completing this form, the seller must report any multiple sale or other disposition of pistols or revolver on ATF Form 3310.4 (see 27 CFR § 478.126a).

Question(s) 26, 27, 28, 29 and 30, Firearm(s) Description: These blocks should be completed with the firearm(s) information. Firearms manufactured after 1968 should all be marked with a serial number. Should you acquire a firearm that is not marked with a serial number, you may answer question 28 with "NSN" (No Serial Number), "N/A" or "None."

If more than five firearms are involved in a transaction, the information required by Section D, questions 26-30, must be provided for the additional firearms on a separate sheet of paper, which must be attached to the ATF Form 4473 covering the transaction.

Types of firearms include: pistol, revolver, rifle, shotgun, receiver, frame and other firearms that are not either handguns or long guns (rifles or shotguns), such as firearms having a pistol grip that expel a shotgun shell or National Firearms Act (NFA) firearms.

Additional firearms purchases by the same buyer may not be added to the form after the seller has signed and dated it. A buyer who wishes to purchase additional firearms after the seller has signed and dated the form must complete a new ATF Form 4473. The seller must conduct a new NICS check.

Question 30c. This box is for the FFL's use in recording any information he or she finds necessary to conduct business.

Question 32 Federal Firearms License Number: Must contain at least the first three and last five digits of the FFL number, for instance X-XX-XXXXX.

Question 33-35 Transferor/Sellers Information: For "denied" and "cancelled" NICS transactions, the person who completed Section B must complete Section D, questions 33-35.

Privacy Act Information

Solicitation of this information is authorized under 18 U.S.C. § 923(g). Disclosure of the individual's Social Security number is voluntary. The number may be used to verify the buyer's identity.

Paperwork Reduction Act Notice

The information required on this form is in accordance with the Paperwork Reduction Act of 1995. The purpose of the information is to determine the eligibility of the transferee to receive firearms under Federal law. The information is subject to inspection by ATF officers and is required by 18 U.S.C. §§ 922 and 923.

The estimated average burden associated with this collection is 30 minutes per respondent or recordkeeper, depending on individual circumstances. Comments about the accuracy of this burden estimate and suggestions for reducing it should be directed to Reports Management Officer, Document Services Section, Bureau of Alcohol, Tobacco, Firearms and Explosives, Washington, DC 20226.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Confidentiality is not assured.

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Exhibit Group E

Exhibit #15 – ATF Procedure, 2013-1

Case 6:14-cv-06709-CJS Document 3-10 Filed 01/15/15 Page 9 of 32
NOTE: On March 15, 2013, ATF issued updated procedures for FFL facilitation of private firearm transfers. See, ATF Proc. 2013-1 at www.atf.gov/regulations-rulings/procedures/index



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

JAN 16 2013

Washington, DC 20226

www.atf.gov

OPEN LETTER TO ALL FEDERAL FIREARMS LICENSEES

The purpose of this open letter is to remind all Federal firearms licensees (FFL) of their ready ability to enhance public safety and assist law enforcement by encouraging and facilitating transfers of firearms between private individuals through their businesses.

As background, millions of transactions involving the private sale of firearms between the residents of the same state occur each year in the United States at gun shows, and through classified and online advertisements. These private sellers, who are not Federal firearms licensees, do not have the ability to use the National Instant Criminal Background Check System (NICS) to conduct background checks on prospective private purchasers and, consequently, have no comprehensive way to confirm whether or not the private individual to whom they are selling a firearm is prohibited from possessing a firearm.

Many FFLs throughout the United States have routinely facilitated firearms transfers between private individuals, and FFLs may charge administrative fees to do so consistent with any state law requirements. ATF encourages FFLs to facilitate firearms sales between private individuals through FFL businesses. This service provides both customers and the community assurance that individuals who want to purchase firearms undergo a comprehensive background check. FFL facilitation of private firearm transfers will also improve law enforcement's ability to trace firearms if they are later recovered in a crime.

Facilitated transfers are subject to the same rules and regulations as other firearm sales conducted by FFLs, including compliance with state and local law. Similarly, these transactions are also subject to the provisions and protections of the Protection of the Lawful Commerce in Arms Act (PLCAA), Title 15, United States Code, Sections 7901–7903.

As a reminder, the procedure by which FFLs can facilitate transfers of firearms between private sellers is as follows:

- FFLs may acquire firearms from any person in any State;
- Upon receipt of a firearm, FFLs are required to record the acquisition of the firearm in their required records;

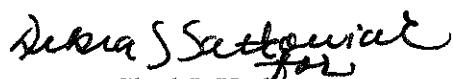
Case 6:14-cv-06709-CJS Document 3-10 Filed 01/15/15 Page 10 of 32

NOTE: On March 15, 2013, ATF issued updated procedures for FFL facilitation of private firearms transfers. See ATF, Proc. 2013-1 at www.atf.gov/regulations-rulings/procedures/index

-2-

- Prior to conducting the transfer of a firearm to an unlicensed person, the purchaser and the FFL must complete ATF Form 4473, Firearms Transaction Record, and the FFL must contact NICS and receive a proceed response (or wait until three days have passed), which must be recorded on the ATF Form 4473; and
- The FFL must record the disposition of the firearm in her/his required records, and follow all other regulations with respect to the disposition of the firearm or firearms.

For further guidance, please contact the Firearms Industry Programs Branch at 202-648-7090.



Chad J. Yoder

Chief, Firearms and Explosives Industry Division

Montgomery vs. Cuomo

Exhibit Group E

Exhibit #16A – FBI “NICS Appeals Brochure”



National Instant Criminal Background Check System

[Home](#) • [About Us](#) • [CJIS](#) • [NICS](#) • [Appeals](#) • [NICS Appeals Brochure - In English](#)

NICS Appeals Brochure

[View printable version \(pdf\)](#)

Guide for Appealing a Firearm Transfer Your Rights and Responsibilities

NTN: _____

Appealing your Denial or Delay

If you believe you have been erroneously denied or have received an extended delay on a firearms transfer, you may request an appeal of your deny or delay decision.

You may submit your request first to the agency that conducted the check through the National Instant Criminal Background Check System (NICS), i.e., either the state point of contact or the FBI. As an alternative to appealing directly through the processing agency, you may elect to submit your appeal request to the FBI Criminal Justice Information Services (CJIS) Division's NICS Section.

You may challenge the accuracy of the record used as the basis for your **denial or delay** or submit your fingerprints to establish positive proof that you are not the same person as in the criminal history record used as the basis for your denial or delay.

Record Challenges

You may challenge the accuracy of the record used in the evaluation of your denial or delay or declare your rights to obtain a firearm have been restored, etc. If you have additional information (e.g., court documentation) to assist the NICS Section's Appeal Services Team (AST) in correcting or updating the record, you should include the information with your written correspondence.

Questions of Identity

You may question the identity of the criminal history record used as the basis of your denial or delay by having your fingerprint impressions rolled or electronically scanned by law enforcement or another authorized fingerprinting agency. The agency preparing your fingerprints must provide an agency name, address, telephone number, and an Originating Agency Identifier number (as assigned by the FBI) and the legible signature of the person who rolled your fingerprints on the fingerprint card. The reason fingerprinted should be marked "For NICS Purposes." The omission of any required information may result in a rejection of your appeal.

Requesting an Appeal

You may request the reason for your denial or delay from the FBI in **writing** by mail, facsimile, or online.

Due to the Privacy Act of 1974, the reason for the denial or delay cannot be disseminated to you via the telephone.

Federal Bureau of Investigation

Criminal Justice Information Services Division

NICS Section

Appeal Services Team, Module A-1

Post Office Box 4278

Clarksburg, WV 26302-4278

Facsimile: (304) 625-0535

On-line: www.fbi.gov/nics-appeals

Appealing a Denial

You must include the **required information** below along with your appeal request:

1. Complete Name
2. Complete Mailing Address
3. NICS Transaction Number (NTN) or State Transaction Number (STN)

You may also include a set of your rolled fingerprints.

Appealing a Delay

You must include the **required information** below along with your appeal request:

1. Complete Name
2. Complete Mailing Address
3. A set of your rolled fingerprints
4. NICS Transaction Number (NTN) or State Transaction Number (STN)

A delayed transaction will be purged from the NICS within 88 days from creation. The NICS Section requires that you wait 30 days from the date initiating the check prior to filing an appeal on a delay to give the NICS Section's staff time to complete the initial transaction. If your original background check is completed, the Federal Firearm Licensee will be notified with a final status.

Failure to submit all required appeal information will result in the rejection of your appeal request.

NICS Links

NICS Home

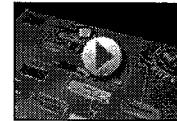
General Information

- [Fact Sheet](#)
- [Index Brochure](#)
- [Overview](#)
- [Participation Map](#)

Appeals

- [Appeals/Voluntary Appeal File Process](#)
- [Frequently Asked Questions](#)
- [Appeals Brochure—in English](#)
- [Appeals Brochure—en Español](#)
- [Voluntary Appeal File Brochure—in English \(pdf\)](#)
- [Voluntary Appeal File Brochure—en Espanol](#)
- [Standard Fingerprint Form \(pdf\)](#)
- [Attorney Release Form \(pdf\)](#)

Videos



NICS Process
(for Dealers)



NICS Process
(for Customers)



NICS Voluntary
Appeal File (VAF)

Resources For Federal Firearms Licensees

Reports and Statistics

- Operations Reports: 2013 | 2012 | 2011 (pdf) | 2010 (pdf)
| 2009 | 2008 | 2007 | 2006 | 2005 | 2003/2004 | 2001/2002 |
2000 (pdf) | 1998/1999 (pdf)
- Active Records in the NICS Index (pdf)
- Federal Denials (pdf)
- NICS Firearm Checks: Month/Year (pdf)
- NICS Firearm Checks: Month/Year by State (pdf)
- NICS Firearm Checks: Month/Year by State/Type (pdf)
- NICS Firearm Checks: Year by State/Type (pdf)
- NICS Firearm Checks: Top 10 Highest Days/Weeks (pdf)

News and Stories

- 2013: NICS Turns 15
- 2011 Testimony
- 10th Anniversary Story | Speech | Photos

Appeal Results

The AST will respond to your appeal request via U.S. mail.

Appeal cases are worked in the order in which they are received.

The provisions for appeals are outlined in the NICS Regulations at Title 28, Code of Federal Regulations, Part 25.10, and Subsection 103 (f) and (g) and Section 104 of the Brady Handgun Violence Prevention Act of 1993.

Notification of Receipt of the Appeal

If you were denied, the AST will respond by providing you with the general reason for denial within five business days of the receipt of your inquiry.

If you were delayed, the AST will notify you that your initial appeal request was received.

NOTE: Specific appeal information can **only** be provided to you once positive proof of identity is established with the record used in your denial or delay.

Completion of the Appeal

If the AST is unable to resolve your appeal, you will be provided referral information to contact the agency maintaining the record on which your denial or delay was based. You may submit any information to the agency that maintains the record to assist with the update of your record. The AST must be notified and provided documentation if records are updated and will provide you with a decision on your appeal. Then, if your appeal is successful, you will be notified that you are eligible to purchase or redeem a firearm. You will be issued documentation which **must** be presented to the Federal Firearms Licensee who initiated your background check.

NICS**What Prohibits an Individual From the Transfer or Possession of a Firearm?**

A deny message from the NICS indicates either you or another individual with a similar name and/or similar descriptive features has been matched with either **federally** prohibitive criteria (listed below) or state prohibitive criteria.

Note: If denied, your name will be included in a file accessible by law enforcement.

Section 922(g) and (n) of the Gun Control Act prohibits certain persons from shipping or transporting any firearm in interstate or foreign commerce, or receiving any firearm which has been shipped or transported in interstate or foreign commerce, or possessing any firearm in or affecting commerce.

These prohibitions apply to any person who:

18, U.S.C. §922 (g) (1)

Has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year

18, U.S.C. §922 (g) (2)

Is a fugitive from justice

18, U.S.C. §922 (g) (3)

Is an unlawful user of or addicted to any controlled substance

18, U.S.C. §922 (g) (4)

Has been adjudicated as a mental defective or committed to a mental institution

18, U.S.C. §922 (g) (5)

Is illegally or unlawfully in the United States

18 U.S.C. §922 (g) (6)

Has been discharged from the Armed Forces under dishonorable conditions

18, U.S.C. §922 (g) (7)

Having been a citizen of the United States, has renounced U.S. citizenship

18, U.S.C. §922 (g) (8)

Is subject to a court order that restrains the person from harassing, stalking, or threatening an intimate partner or child of such intimate partner

18, U.S.C. §922 (g) (9)

Has been convicted in any court of a misdemeanor crime of domestic violence

18, U.S.C. §922 (n)

Is under indictment for a crime punishable by imprisonment for a term exceeding one year

Please reference Volume 62, Federal Register 34634-02; June 27, 1997, Rules and Regulations, for more complete definitions of the prohibiting categories.

NICS Information:

NICS Customer Service
1-877-FBI-NICS (324-6427)

NICS Appeal Facsimile
1-304-625-0535

Telecommunications Device

for the Deaf (TDD)

1-877-NICS-TTY

NICS Website
<http://www.fbi.gov/nics-appeals>

September 2013

[Accessibility](#) | [eRulemaking](#) | [Freedom of Information Act](#) | [Legal Notices](#) | [Legal Policies and Disclaimers](#) | [Links](#) | [Privacy Policy](#) | [USA.gov](#) | [White House](#)
FBI.gov is an official site of the U.S. government, U.S. Department of Justice

[Close](#)

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Exhibit Group E

Exhibit #16B – FBI “NICS Appeal Request Form” webpage



FEDERAL BUREAU OF INVESTIGATION



Forms

[Home](#) - NICS Appeal Request Form I wish to request the reason for my denial.

Complete Name:

Complete Name

First

Middle

Last

Cadence

State of Purchase: ▼

NICS Transaction Number (NTN) or State Transaction Number (STN)

NICS Transaction Number (NTN) or State Transaction Number (STN)

Please provide all NTNs and/or STNs for all NICS background checks you wish to appeal.

NTN/STN 1

NTN/STN 2

NTN/STN 3

NTN/STN 4

NTN/STN 5

NTN/STN 6

NTN/STN 7

NTN/STN 8

NTN/STN 9

NTN/STN 10

Complete Mailing Address:

complete mailing address

Address Line 1

Address Line 2

City

State ▼

Zip

Telephone Number:

E-Mail Address:

Appellant Questions/Concerns:

2000 characters remaining

Upload File Attachments:

If you have additional information (e.g., court documentation) to assist in processing your application, you may submit it by attaching below.

Attachment 1

 Choose File No file chosen

Attachment 2

 Choose File No file chosen

Attachment 3

 Choose File No file chosen

Attachment 4

 Choose File No file chosen

Please e-mail any additional attachments to NICS@ic.fbi.gov along with your complete name, address, and NTN or STN.

Captcha

 Type the text[Privacy & Terms](#) Submit Reset

Please Click the Submit Button "Only Once".

[Read our Privacy Policy.](#)

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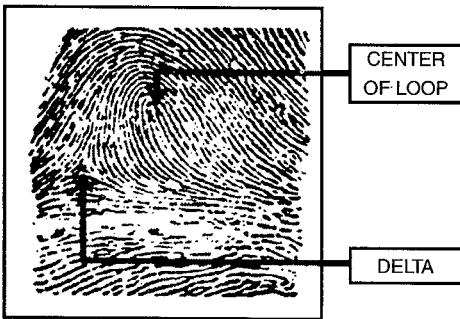
Exhibit Group E

Exhibit #16C – FBI FD-258 Fingerprint Card

APPLICANT <small>See Privacy Act Notice on Back</small>		LEAVE BLANK	TYPE OR PRINT ALL INFORMATION IN BLACK						FBI	LEAVE BLANK									
			LAST NAME	NAM	FIRST NAME	MIDDLE NAME													
FD-258 (Rev. 9-9-13) 1110-0046																			
SIGNATURE OF PERSON FINGERPRINTED			ALIASES AKA						O R I										
RESIDENCE OF PERSON FINGERPRINTED																			
DATE	SIGNATURE OF OFFICIAL TAKING FINGERPRINTS		CITIZENSHIP CTZ						SEX	RACE	HGT.	WGT.	EYES	HAIR	PLACE OF BIRTH	DOB Month Day Year			
EMPLOYER AND ADDRESS			YOUR NO. OCA						LEAVE BLANK										
REASON FINGERPRINTED			FBI NO. FBI						CLASS _____										
			ARMED FORCES NO. MNU						REF. _____										
			SOCIAL SECURITY NO. SOC																
			MISCELLANEOUS NO. MNU																
1. R. THUMB	2. R. INDEX	3. R. MIDDLE	4. R. RING	5. R. LITTLE															
6. L. THUMB	7. L. INDEX	8. L. MIDDLE	9. L. RING	10. L. LITTLE															
LEFT FOUR FINGERS TAKEN SIMULTANEOUSLY												RIGHT FOUR FINGERS TAKEN SIMULTANEOUSLY							
												L. THUMB	R. THUMB						

FEDERAL BUREAU OF INVESTIGATION
UNITED STATES DEPARTMENT OF JUSTICE
CJIS DIVISION/CLARKSBURG, WV 26306

1.LOOP



THE LINES BETWEEN CENTER OF LOOP AND DELTA MUST SHOW

APPLICANT

THIS CARD FOR USE BY:

1. LAW ENFORCEMENT AGENCIES IN FINGERPRINTING APPLICANTS FOR LAW ENFORCEMENT POSITIONS.*
2. OFFICIALS OF STATE AND LOCAL GOVERNMENTS FOR PURPOSES OF EMPLOYMENT, LICENSING, AND PERMITS, AS AUTHORIZED BY STATE STATUTES AND APPROVED BY THE ATTORNEY GENERAL OF THE UNITED STATES, LOCAL AND COUNTY ORDINANCES, UNLESS SPECIFICALLY BASED ON APPLICABLE STATE STATUTES DO NOT SATISFY THIS REQUIREMENT.*
3. U.S. GOVERNMENT AGENCIES AND OTHER ENTITIES REQUIRED BY FEDERAL LAW.**
4. OFFICIALS OF FEDERALLY CHARTERED OR INSURED BANKING INSTITUTIONS TO PROMOTE OR MAINTAIN THE SECURITY OF THOSE INSTITUTIONS.

Please review this helpful information to aid in the successful processing of hard copy criminal and civil fingerprint submissions in order to prevent delays or rejections. Hard copy fingerprint submissions must meet specific criteria for processing by the Federal Bureau of Investigation.

Ensure all information is typed or legibly printed using blue or black ink.

Enter data within the boundaries of the designated field or block.

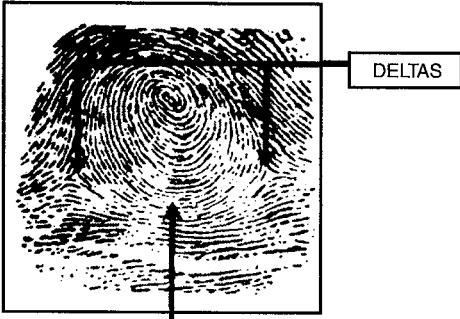
Complete all required fields. (If a required field is left blank, the fingerprint card may be immediately rejected without further processing.)

- The required fields for hard copy fingerprint cards are: originating agency identifier number - date of birth - place of birth - name - sex fingerprint impressions - any applicable state stamp - Other (race, height, weight, eye color, hair color)

- criminal fingerprint cards also require an arrest charge and date of arrest.

- civil fingerprint cards also require a reason fingerprinted and date fingerprinted

2.WHORL



THESE LINES RUNNING BETWEEN DELTAS MUST BE CLEAR

3.ARCH



ARCS HAVE NO DELTAS

Do not use highlighters on fingerprint cards.

Do not enter data or labels within "Leave Blank" areas.

Ensure the "Reply Desired" field is checked when applicable (criminal only).

Ensure fingerprint impressions are rolled completely from nail to nail.

Ensure fingerprint impressions are in the correct sequence.

Ensure notations are made for any missing fingerprint impression (i.e. amputation).

Do not use more than two retabs per fingerprint impression block.

Ensure no stray marks are within the fingerprint impression blocks.

Training aids can be ordered online via the Internet by accessing the FBI's website at: fbi.gov, click on 'Fingerprints', then click on 'Ordering Fingerprint Cards & Training Aids'. Direct questions to the Identification and Investigative Services Section's Customer Service Group at (304) 625-5590 or by e-mail at <liaison@leo.gov>.

PRIVACY ACT STATEMENT

Authority: The FBI's acquisition, preservation, and exchange of fingerprints and associated information is generally authorized under 28 U.S.C. 534. Depending on the nature of your application, supplemental authorities include Federal statutes, State statutes pursuant to Pub.L. 92-544, Presidential Executive Orders, and federal. Providing your fingerprints and associated information is voluntary; however, failure to do so may affect completion or approval of your application.

Social Security Account Number (SSAN): Your SSAN is needed to keep records accurate because other people may have the same name and birth date. Pursuant to the Federal Privacy Act of 1974 (5 USC 552a), the requesting agency is responsible for informing you whether disclosure is mandatory or voluntary, by what statutory or other authority your SSAN is solicited, and what uses will be made of it. Executive Order 13397 also asks Federal agencies to use this number to help identify individuals in agency records.

Principal Purpose: Certain determinations, such as employment, licensing, and security clearances, may be predicated on fingerprint-based background checks. Your fingerprints and associated information/biometrics may be provided to the employing, investigating, or otherwise responsible agency, and/or the FBI for the purpose of comparing your fingerprints to other fingerprints in the FBI's Next Generation Identification (NGI) system or its successor systems (including civil, criminal, and latent fingerprint repositories) or other available records of the employing, investigating, or otherwise responsible agency. The FBI may retain your fingerprints and associated information/biometrics in NGI after the completion of this application and, while retained, your fingerprints may continue to be compared against other fingerprints submitted to or retained by NGI.

Routine Uses: During the processing of this application and for as long thereafter as your fingerprints and associated information/biometrics are retained in NGI, your information may be disclosed pursuant to your consent, and may be disclosed without your consent as permitted by the Privacy Act of 1974 and all applicable Routine Uses as may be published at any time in the Federal Register, including the Routine Uses for the NGI system and the FBI's Blanket Routine Uses. Routine uses include, but are not limited to, disclosures to: employing, governmental or authorized non-governmental agencies responsible for employment, contracting, licensing, security clearances, and other suitability determinations; local, state, tribal, or federal law enforcement agencies; criminal justice agencies; and agencies responsible for national security or public safety.

Additional Information: The requesting agency and/or the agency conducting the application-investigation will provide you additional information pertinent to the specific circumstances of this application, which may include identification of other authorities, purposes, uses, and consequences of not providing requested information. In addition, any such agency in the Federal Executive Branch has also published notice in the Federal Register describing any system(s) of records in which that agency may also maintain your records, including the authorities, purposes, and routine uses for the system(s).

INSTRUCTIONS:

- * 1. PRINTS MUST GENERALLY BE CHECKED THROUGH THE APPROPRIATE STATE IDENTIFICATION BUREAU, AND ONLY THOSE FINGERPRINTS FOR WHICH NO DISQUALIFYING RECORD HAS BEEN FOUND LOCALLY SHOULD BE SUBMITTED FOR FBI SEARCH.
2. IDENTITY OF PRIVATE CONTRACTORS SHOULD BE SHOWN IN SPACE "EMPLOYER AND ADDRESS". THE CONTRIBUTOR IS THE NAME OF THE AGENCY SUBMITTING THE FINGERPRINT CARD TO THE FBI.
3. FBI NUMBER, IF KNOWN, SHOULD ALWAYS BE FURNISHED IN THE APPROPRIATE SPACE.

** MISCELLANEOUS NO. - RECORD: OTHER ARMED FORCES NO. PASSPORT NO. [FP], ALIEN REGISTRATION NO. (AR), PORT SECURITY CARD NO. (PS), SELECTIVE SERVICE NO. (SS) VETERANS' ADMINISTRATION CLAIM NO. (VA).

Montgomery vs. Cuomo

Exhibit Group E

Exhibit #16D – FBI “Authorization”

**AUTHORIZATION TO RELEASE CRIMINAL HISTORY INFORMATION
AND RELEASE OF LIABILITY**

TO: FBI/CJIS Division/NICS Section, Attention: Legal Research and Analysis Team, P.O. Box 4278,
Clarksburg WV 26302-4278

I, the undersigned, hereby authorize the FBI Criminal Justice Information Services (CJIS) Division's National Instant Criminal Background Check System (NICS) Section to release to my attorney

Name _____,

Address _____ (_____) _____, information which shall
Phone Number _____

include, but not be limited to, my entire criminal history, any information relative to my criminal history, and the details of my background check for the purchase/redemption of a firearm for NICS Transaction Number (NTN) _____. In addition, I authorize the FBI/NICS Section to discuss any information regarding procedures for updating or correction of its records, as appropriate, as permitted by law and policy. This may include requests from the NICS Section to my attorney for information, clarification of information, and/or submission of additional documentation on my behalf. **NOTE:**
The reference to "my attorney" in this document includes not only the individual lawyer named above but also any other attorney, paralegal, co-worker, or employee with whom he or she presently is professionally associated and who adequately establishes that association to the NICS Section.

I further release the FBI and the NICS Section from any and all liability of any kind for releasing any and all information as described and agree to indemnify and hold the FBI and the NICS Section harmless for any damages or injury which might result directly or indirectly from the release of same.

The foregoing authorization shall continue in full force and effect until revoked by me in writing. A photocopy of this authorization shall be considered the same as the original.

Printed Full Name: _____

Date of Birth: _____

Social Security Number: _____

Signature: _____ Date: _____

Witness Signature: _____ Date: _____

Montgomery vs. Cuomo

Exhibit Group E

Exhibit #16E – FBI “Frequently Asked Questions” webpage



National Instant Criminal Background Check System

[Home](#) • [About Us](#) • [CJIS](#) • [NICS](#) • [Appeals](#) • [NICS Appeals Process](#) • [NICS Appeal Frequently Asked Questions](#)

NICS Appeal and VAF Contact Information

NICS Appeal Address

Federal Bureau of Investigation
 Criminal Justice Information Services Division
 National Instant Criminal Background Check System Section
 Appeal Services Team, Module A-1
 Post Office Box 4278
 Clarksburg, WV 26302-4278

NICS Voluntary Appeal File Address

Federal Bureau of Investigation
 Criminal Justice Information Services Division
 National Instant Criminal Background Check System Section
 Voluntary Appeal File
 Post Office Box 4278
 Clarksburg, WV 26302-4278

NICS Appeal Facsimile

1-304-625-0535

NICS Appeal and Voluntary Appeal File Website

www.fbi.gov/nics-appeals

NICS Customer Service

1-877-FBI-NICS (324-6427)

Frequently Asked Appeal Questions

- **Who can request a NICS Appeal?** Individuals who believe they have been erroneously denied or delayed a firearm transfer based on a match to a record returned by the NICS may request an appeal of their deny or delay decision. A delayed transaction will be purged from the NICS within 88 days from creation. The NICS Section recommends that you wait **30 days** from the date initiating the check prior to filing an appeal on a **delay** to give the NICS Section's staff time to complete the initial transaction. If your original background check is completed, the Federal Firearm Licensee will be notified with a final status.
- **How do I initiate an appeal request?** All appeal inquiries must be submitted to the NICS Section's Appeal Services Team (AST) in writing. Due to the Privacy Act of 1974, specific information cannot be disseminated to you via the telephone. Appeal requests can be mailed, faxed, or electronically transmitted via the Internet.
- **What do I need to include in my appeal request?** You **must** provide your complete name, complete mailing address, and NICS Transaction Number (NTN) or State Transaction Number (STN). Note: A **fingerprint card is required** on all **delayed** transactions and must be submitted along with your appeal request. It is also highly recommended that a completed fingerprint card be submitted along with your initial **denied** appeal request. Failure to submit all required information may result in the rejection or delay of your appeal request. If you have additional information (e.g., court documentation) to assist the AST in correcting or updating your record, you should include the information along with your appeal request.
- **How do I request an appeal packet?** To request an appeal packet, you can either print a copy of the appeal brochure and downloadable fingerprint card from the NICS Appeal Website, <<http://www.fbi.gov/nics-appeals>>, or if you do not have access to the Internet, you can call the NICS Customer Service at 1-877-FBI-NICS (324-6427). Appeal packets can be sent to you via mail, e-mail, or facsimile. You will need to provide your complete name and address, e-mail address, or facsimile number to the NICS customer service representative.
- **How will I know the NICS received my appeal request?** The AST will respond to your **initial** appeal request, in writing, by providing you the general reason for your **denial** within **five business days**. They will also advise you if a fingerprint card or additional documentation is necessary to further your appeal process. You will receive written notification when your **delay** appeal request has been processed. Delayed transactions are not mandated under the **five business day** deadline however, the AST will do their best to respond to your request in a timely manner.

■ **What is a NICS NTN or STN?** An NTN is a unique number assigned to each valid background

NICS Links

NICS Home

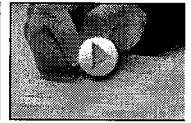
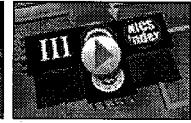
General Information

- Fact Sheet
- Index Brochure
- Overview
- Participation Map

Appeals

- Appeals/Voluntary Appeal File Process
- Frequently Asked Questions
- Appeals Brochure—in English
- Appeals Brochure—en Espanol
- Voluntary Appeal File Brochure—in English (pdf)
- Voluntary Appeal File Brochure—en Espanol
- Standard Fingerprint Form (pdf)
- Attorney Release Form (pdf)

Videos



Resources For Federal Firearms Licensees

Reports and Statistics

- Operations Reports: 2013 | 2012 | 2011 (pdf) | 2010 (pdf) | 2009 | 2008 | 2007 | 2006 | 2005 | 2003/2004 | 2001/2002 | 2000 (pdf) | 1998/1999 (pdf)
- Active Records in the NICS Index (pdf)
- Federal Denials (pdf)
- NICS Firearm Checks: Month/Year (pdf)
- NICS Firearm Checks: Month/Year by State (pdf)
- NICS Firearm Checks: Month/Year by State/Type (pdf)
- NICS Firearm Checks: Year by State/Type (pdf)
- NICS Firearm Checks: Top 10 Highest Days/Weeks (pdf)

News and Stories

- 2013: NICS Turns 15
- 2011 Testimony
- 10th Anniversary Story | Speech | Photos

- ~~What is a NTN or STN? A NTN or STN is a unique number assigned to each valid background check inquiry received by the NICS. An STN is a unique number assigned by a State Point of Contact to a valid background check inquiry. The primary purpose of an NTN or STN is to provide a means of associating inquiries to the NICS with the responses provided by the NICS Federal Firearms Licensees (FFL).~~

- **Where can I get my NTN or STN?** You must go to the FFL or state agency who initiated your NICS background check and request your NTN or STN.
- **Should I submit my fingerprints along with my initial appeal request?** Yes, it is highly recommended that a completed fingerprint card be submitted along with your initial appeal request. The AST will be able to provide you with more detailed information if your fingerprints match the record used to deny or delay your firearm transfer. Note: *A fingerprint card is required on all delayed transactions and must be submitted along with your appeal request.* Failure to submit all required information may result in the rejection or delay of your appeal request.
- **Is a fingerprint card mandatory to initiate an appeal request?** It is highly recommended that a completed fingerprint card be submitted along with your initial appeal request. In cases involving criminal history records, if fingerprints are not submitted along with your initial appeal request, the NICS Section may subsequently request submission of your fingerprints or certified court documentation to help establish positive proof of identity. Note: *A fingerprint card is required on all delayed transactions and must be submitted along with your appeal request.*
- **Where should I go to get my fingerprint impressions rolled?** Law enforcement agencies such as sheriff's offices, police departments, etc., or any other authorized fingerprinting agency can roll your fingerprints for you.
- **Do all fingerprinting agencies charge a fingerprinting fee?** Fingerprinting agencies have the option to set their own individual rates or fees for fingerprint processing.
- **What do I do if my fingerprint card was rejected by the AST?** You should first read the appeal response letter to determine if the fingerprint card was rejected because the fingerprints were insufficient and could not be processed, or if the fingerprint card information was incomplete. Either way, you will need to go back to the agency who initially rolled your fingerprints and ask the agency to complete the missing information or re-roll your fingerprints again if the fingerprint images were unable to be processed. (Note: The agency rolling the fingerprint impressions must include its agency name and address on the fingerprint card. The agency's telephone number and employee's signature must also be included.)
- **Is there a way to find out the current status of my appeal request?** The FBI is no longer performing status checks on NICS appeals. You will receive written notification when your appeal has been processed. Appeal cases are worked in the order in which they are received.
- **Can I have my response letter sent to my e-mail address?** All appeal response letters are sent via the U.S. Postal Service. They cannot be sent via e-mail due to the Privacy Act of 1974.
- **What do I do once I receive the overturn appeal letter and the appeal certificate?** You must take the embossed overturn appeal certificate to the original FFL. If 30 days have elapsed since the initial background check, the FFL must recheck the NICS before allowing the transfer.
- **How do I get a copy of my FBI identification record?** If you have appealed a denied or delayed transaction and submitted your fingerprints to the AST, you will receive a copy of your FBI identification record only if your appeal is unable to be resolved. If you would like a copy of your FBI identification record without filing a NICS appeal, you may contact the Biometric Services Section's Customer Service Group at 304-625-5590.
- **Are electronic scanned fingerprint images accepted?** Yes, individuals must request the fingerprinting agency to print a copy of their electronic scanned fingerprint images which may be submitted via the NICS Appeal Website, <<http://www.fbi.gov/nics-appeals>>, as an attachment; via facsimile to (304) 625-0535; or mailed to the FBI Criminal Justice Information Services Division, National Instant Criminal Background Check System Section, Appeal Services Team, Module A-1, Post Office Box 4278, Clarksburg, West Virginia 26302-4278. Please ensure all submissions contain your NTN or STN.
- **How can I cancel my appeal request?** You must request the cancellation of your appeal request in writing which may be submitted via the NICS Appeal Website, <<http://www.fbi.gov/nics-appeals>>, as an attachment; via facsimile to (304) 625-0535; or mailed to the FBI Criminal Justice Information Services Division, National Instant Criminal Background Check System Section, Appeal Services Team, Module A-1, Post Office Box 4278, Clarksburg, West Virginia 26302-4278. Please ensure all submissions contain your NTN or STN.
- **How can I challenge the accuracy of my FBI identification record?** You may challenge the accuracy of the record used in the evaluation of your denial/delay or declare your rights to obtain a firearm have been restored, etc., by filing an appeal. If you have additional information (e.g., court documentation), you should include the information along with your written appeal request. Please be advised every attempt is made to update all appropriate records in order to alleviate any complication on future background checks. You may also pursue completion or correction of any criminal history record maintained by the state and forward any modifications of your criminal history record directly to the NICS Section. You **must** include your NTN or STN on your additional documentation.

- **Can I appeal a denial/delay?** Yes, as long as the transaction is not older than 88 days.

The NICS Section recommends that you wait 30 days from the date initiating the check prior to filing an appeal on a delay to give the NICS Section's staff time to complete the initial transaction. If your original background check is completed, the Federal Firearm Licensee will be notified with a final status. Additionally, a **fingerprint card is required** when you are filing an appeal on a delayed transaction.

- **If my mailing address changes, who should I contact?** If your address changes during the time your appeal request is in process, you must request your new address change in writing which may be submitted via the NICS Appeal Website, <<http://www.fbi.gov/nics-appeals>>, as an attachment; via facsimile to (304) 625-0535; or mailed to the FBI Criminal Justice Information Services Division, National Instant Criminal Background Check System Section, Appeal Services Team, Module A-1, Post Office Box 4278, Clarksburg, West Virginia 26302-4278. Please ensure all submissions contain your NTN or STN.

Frequently Asked VAF Questions

- **What does UPIN stand for?** Unique Personal Identification Number
- **Can anyone apply for a VAF UPIN?** You are encouraged to submit an appeal request first. The VAF was originally established to permit individuals to request the NICS maintain information about themselves in the VAF to prevent future erroneous denials or extended delays of a firearm transfer. The AST will refer you to the VAF upon completion of your appeal if the VAF will prevent future extended delays or erroneous denials.
- **How do I use the VAF UPIN?** When filling out the Bureau of Alcohol, Tobacco, Firearms and Explosives Form 4473, you must place the VAF UPIN in box "9" and also advise the FFL you have a VAF UPIN.
- **Once I get my UPIN, does that mean I will never be delayed or denied a firearm purchase again?** Entry into the VAF will not automatically result in a proceed response on subsequent firearm purchases. A complete NICS check is still required and will result in a denial or delay if additional prohibitive or potentially prohibitive information is discovered.
- **What do I do if I lost my VAF UPIN?** You must *immediately* report a lost VAF UPIN to the NICS Customer Service at 1-877-FBI-NICS (324-6427), press 3, and then press 3 again to get to the menu that will be able to help you report your lost VAF UPIN.
- **If I forget my VAF UPIN, can the NICS Customer Service provide it to me over the phone?** The UPIN cannot be provided over the telephone. However, you may call the NICS Customer Service at 1-877-FBI-NICS (324-6427), press 3, and then press 3 again to get to the menu where you can leave a message so the AST can send your VAF UPIN to you in writing. You will need to provide your complete name, mailing address, and phone number.
- **Can I apply for the VAF the same time I am appealing a NICS deny/delay?** You are encouraged to submit an appeal request first. After the successful completion of your appeal, you will then be notified if you are a good candidate for the VAF.
- **Can I use the same fingerprint card I used on my overturn appeal and submit it with my VAF Application?** Yes, as long as it is the original fingerprint card.
- **How do I initiate a VAF request?** If you were delayed or denied by the NICS, you are encouraged to submit an appeal request first. After the successful completion of your appeal, you will then be notified if you are a good candidate for the VAF.
- **What do I need to include in my VAF request?** The VAF Application and fingerprint card must have all mandatory fields completed, and the VAF Applicant's Statement must be signed and dated. Failure to submit all required VAF information may result in the rejection of your VAF request.
- **Is the fingerprint card mandatory to initiate a VAF Application?** Yes, without the fingerprint card, the VAF Application will be rejected.
- **Where should I go to get my fingerprint impressions rolled?**
Law enforcement agencies such as sheriff's offices, police departments, etc., or any other authorized fingerprinting agency can roll your fingerprints for you.
- **Does the VAF accept electronic scanned fingerprint images?**
Yes, you must request the fingerprinting agency to print you a **copy** of your electronic scanned fingerprint images which may be submitted via facsimile to (304) 625-0535; or mailed to the FBI Criminal Justice Information Services Division, National Instant Criminal Background Check System Section, Appeal Services Team, Module A-1, Post Office Box 4278, Clarksburg, West Virginia 26302-4278. Your VAF fingerprint card **must** be submitted along with the VAF Application and the signed VAF Applicant's Statement.
- **Do agencies charge a fingerprinting fee?** Individual agencies have the option to set their own rates for fingerprint processing.
- **What do I do if my fingerprint card was rejected by the NICS Section?** You should first read the VAF response letter to determine if the fingerprint card was rejected because the fingerprints were insufficient and could not be processed, or if the fingerprint card information or application was incomplete. You will then need to go back to the agency who initially rolled/scanned your fingerprints and ask them to complete the missing information or re-roll

Your fingerprints again if the fingerprint images were unable to be processed. (Note: The

agency rolling the fingerprint impressions must include the agency name and address on the fingerprint card. The agency's telephone number and employee's signature must also be included.)

- **How do I request a VAF Application?** If you were delayed or denied, you are encouraged to submit an appeal request first. After the successful completion of your appeal, you will then be notified if you are a good candidate for the VAF. Additionally, a downloadable VAF Application and fingerprint card is available on the NICS Appeal Website, <<http://www.fbi.gov/nics-appeals>>.
- **Is there a way to find out the current status of my VAF Application?** The FBI is no longer performing status checks on NICS VAF Applications. You will receive notification when your VAF Application has been processed. All VAF Applications are worked in the order in which they were received.
- **How can I cancel my VAF Application?** You must submit the cancellation of your VAF Application in writing. The request must include your complete name and mailing address.
- **If my mailing address changes, who should I contact?** If your address changes during the time your VAF Application is in process, you must request your new address change in writing which may be submitted via the NICS Appeal Website, <<http://www.fbi.gov/nics-appeals>>, as an attachment; via facsimile to (304) 625-0535; or mailed to the FBI Criminal Justice Information Services Division, National Instant Criminal Background Check System Section, Voluntary Appeal File, Module A-1, Post Office Box 4278, Clarksburg, West Virginia 26302-4278.

Accessibility | eRulemaking | Freedom of Information Act | Legal Notices | Legal Policies and Disclaimers | Links | Privacy Policy | USA.gov | White House
FBI.gov is an official site of the U.S. government, U.S. Department of Justice

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Montgomery vs. Cuomo

Exhibit Group E

Exhibit #17 – FBI “Active Records,” “Denials,” Brochure

Active Records in the NICS Index

UPDATED: As of December 31, 2014

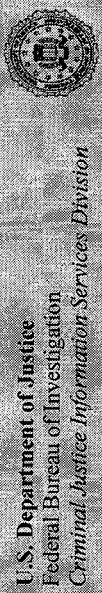
<u>Rank</u>	<u>Prohibited Category Description</u>	<u>Total</u>
1	Illegal/Unlawful Alien	6,346,095
2	Adjudicated Mental Health	3,774,301
3	Convicted of a crime punishable by more than one year or a misdemeanor punishable by more than two years	1,889,892
4	Fugitive from Justice	469,578
5	State Prohibitor	115,957
6	Misdemeanor Crime of Domestic Violence Conviction	112,799
7	Protection/Restraining Order for Domestic Violence	47,296
8	Under Indictment/Information	32,975
9	Federally Denied Persons File	30,285
10	Renounced U.S. Citizenship	27,240
11	Unlawful User/Addicted to a Controlled Substance	24,281
12	Dishonorable Discharge	10,524
Total Active Records in the NICS Index		12,881,223

Federal Denials

Reasons Why the NICS Section Denies

November 30, 1998 - December 31, 2014

<u>Rank</u>	<u>Prohibited Category Description</u>	<u>Total</u>
1	Convicted of a crime punishable by more than one year or a misdemeanor punishable by more than two years	654,036
2	Fugitive from Justice	127,949
3	Misdemeanor Crime of Domestic Violence Conviction	112,925
4	Unlawful User/Addicted to a Controlled Substance	99,614
5	State Prohibitor	57,217
6	Protection/Restraining Order for Domestic Violence	47,870
7	Under Indictment/Information	29,150
8	Adjudicated Mental Health	16,669
9	Illegal/Unlawful Alien	14,526
10	Federally Denied Persons File	5,770
11	Dishonorable Discharge	887
12	Renounced U.S. Citizenship	63
Total Federal Denials		1,166,676



Submission Process

The local, state, tribal, and federal agencies are provided with two modes to add, modify, supplement, or cancel NICS Index entries.

The first mode is an electronic connection between the NICS and the contributing agency using the NCIC-Front End. An agency may use this interface to electronically submit, modify, supplement, cancel, or display a denied person's disqualifying information in the NICS Index. The second mode is batch data transfer on CD, diskette, or by secure e-mail. The NICS Index entries, modifications, supplements, and cancellations are to be processed by the contributing agency, since the contributing agency is responsible for the accuracy and validity of the NICS Index information. It is imperative to update the NICS Index, as necessary, to minimize erroneous denials. The contributing agency is responsible for responding to appeals, assessments, and audits of the submitted records.

In addition to local, state, tribal, and federal agencies voluntarily contributing information to the NICS Index, the NICS Section receives telephone calls from mental health institutions, psychiatrists, police departments, and family members requesting placement of individuals into the NICS Index. Frequently, these are emergency situations and require immediate attention. Any documentation justifying a valid entry into the NICS Index must be available to the originating agencies.

NICS Information

**Customer Service
1-877-324-NICS (6427)**

**Facsimile
1-888-550-6427**

**Telecommunications Device
for the Deaf (TDD)
1-877-NICS-TTY**

**NICS Web Site:
<www.fbi.gov/about-us/cjis/nics>**

**NICS E-Mail Address
<NICS@IC.fbi.gov>**

December 2013



NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM

NICS Index

Prohibiting Categories Defined by Statute

The Brady Act Requirements

The Brady Handgun Violence Prevention Act of 1993 (Brady Act), Public Law 103-159, was signed into law requiring Federal Firearms Licensees (FFLs) to request background checks on prospective firearm transferees. The permanent provisions of the Brady Act, effective November 30, 1998, required the U.S. Attorney General establish the National Instant Criminal Background Check System (NICS). FFLs may contact the NICS by telephone or other electronic means to determine whether or not the transfer of a firearm would violate Section 922 (g) or (n) of Title 18, United States Code (U.S.C.) or state law.

The NICS is a national system that checks available records in the National Crime Information Center (NCIC), the Interstate Identification Index (III), and the NICS Index to determine if prospective transferees are disqualified from receiving firearms.

The NICS Index contains information provided by local, state, tribal, and federal agencies of persons prohibited from receiving firearms under federal law. The NICS Index contains prohibiting information which may not be found in the NCIC or the III.

Section 922 (g) of the Gun Control Act prohibits certain persons from shipping or transporting any firearm in interstate or foreign commerce, or receiving any firearm which has been shipped or transported in interstate or foreign commerce, or possessing any firearm in or affecting commerce. These prohibitions apply to any person who:

18 U.S.C. §922 (g) (1)
Has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year.

18 U.S.C. §922 (n)
Is under indictment for a crime punishable by imprisonment for a term exceeding one year.

18 U.S.C. §922 (g) (2)
Is a fugitive from justice.
18 U.S.C. §922 (g) (3)
Is an unlawful user of or addicted to any controlled substance.

18 U.S.C. §922 (g) (4)
Has been adjudicated as a mental defective or committed to a mental institution.

18 U.S.C. §922 (g) (5)
Is illegally or unlawfully in the United States. Is an alien illegally or unlawfully in the United States or who has been admitted to the United States under a nonimmigrant visa.

18 U.S.C. §922 (g) (6)
Has been discharged from the Armed Forces under dishonorable conditions.

18 U.S.C. §922 (g) (7)
Having been a citizen of the United States, has renounced U.S. citizenship.

18 U.S.C. §922 (g) (8)
Is subject to a court order that restrains the person from harassing, stalking, or threatening an intimate partner or child of such intimate partner.

18 U.S.C. §922 (g) (9)
Has been convicted in any court of a misdemeanor crime of domestic violence.

Please reference the Federal Register, Volume 62, Number 124, Rules and Regulations, for more complete definitions of the prohibiting categories.